



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

FINAL DECISION

Dispute Codes MNDC, MNSD, FF; MNDC, MNSD, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security and pet damage deposits (collectively "deposits"), pursuant to section 38;
- authorization to recover the filing fee for her application, pursuant to section 72.

This hearing also dealt with the tenant's cross-application pursuant to the *Act* for:

- a monetary order for compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement, pursuant to section 67;
- authorization to obtain a return of the tenant's deposits, pursuant to section 38;
- authorization to recover the filing fee for her application, pursuant to section 72.

The "first hearing" on November 23, 2017 lasted approximately 34 minutes and the "second hearing" on December 7, 2017 lasted approximately 49 minutes.

The tenant and her agent attended both hearings. The landlord's agent attended the first hearing only. The landlord attended the second hearing only. At both hearings, all parties were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

At the first hearing, the landlord's agent confirmed that she was a friend of the landlord and that she had permission to speak on her behalf at that hearing. The tenant confirmed at both hearings that her agent had authority to speak on her behalf at both hearings.

The first hearing began at 2:00 p.m. with only me and the landlord's agent present. The tenant and her agent called in late at 2:04 p.m., citing difficulties with reading the hearing notice. I informed the tenant and her agent about what occurred in their absence before they called into the first hearing.

The second hearing began at 9:30 a.m. with only me and the landlord present. The tenant's agent called in late at 9:34 a.m., citing technical difficulties. The tenant called in later at 9:39 a.m. I informed the tenant and her agent about what occurred in their absence before they called into the second hearing.

Preliminary Issue - Adjournment of First Hearing and Evidence

The first hearing on November 23, 2017 was adjourned because the landlord was out of town and was unable to attend the hearing. The tenant consented to the landlord's adjournment request if there was a quick second hearing date given.

By way of my interim decision, dated November 24, 2017, I adjourned both parties' applications to be heard together on December 7, 2017. At the second hearing, both parties confirmed receipt of my interim decision.

At the first hearing, I notified both parties that they could not serve any further evidence after the first hearing and prior to the second hearing. This information was also contained in my interim decision. At the second hearing, both parties confirmed that they had not served any further evidence after the first hearing and prior to the second hearing.

At both hearings, both parties confirmed receipt of the other party's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that both parties were duly served with the other party's application.

At both hearings, the tenant confirmed that she also received an amendment, filed on November 2, 2017, to the landlord's original application.

Settlement Terms

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision and an order. During the

second hearing, the parties discussed the issues between them, turned their minds to compromise and achieved a resolution of their dispute and arising out of this tenancy.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time and arising out of this tenancy:

1. Both parties agreed that the landlord will retain a total of \$1,425.00 from the tenant's deposits, including the entire security deposit of \$1,175.00 and \$250.00 which is half of the tenant's pet damage deposit of \$500.00;
2. Both parties agreed that the landlord will return the remaining \$250.00 from the tenant's pet damage deposit to the tenant by way of e-transfer by December 7, 2017;
 - a. During the hearing, both parties confirmed the tenant's email address where the e-transfer is to be sent as well as the password for the retrieval of the \$250.00 e-transfer amount;
3. Both parties agreed to bear their own costs for the \$100.00 filing fees paid for their applications;
4. Both parties agreed that this settlement agreement constitutes a final and binding resolution of both parties' applications at this hearing and any issues arising out of this tenancy;
5. Both parties agreed that they will not initiate any future claims or applications against each other at the Residential Tenancy Branch, with respect to any issues arising out of this tenancy.

These particulars comprise the full and final settlement of all aspects of this dispute and arising out of this tenancy. Both parties affirmed at the second hearing that they understood and agreed to the above terms, free of any duress or coercion.

Both parties affirmed that they understood and agreed that the above terms are legal, final, binding and enforceable, which settle all aspects of this dispute and arising out of this tenancy.

Conclusion

I order the landlord to retain a total of \$1,425.00 from the tenant's deposits, including the tenant's entire security deposit of \$1,175.00 and \$250.00 which is half of the tenant's pet damage deposit of \$500.00.

In order to implement the above settlement reached between the parties, and as advised to both parties during the hearing, I issue a monetary Order in the tenant's favour in the amount of \$250.00. I deliver this Order to the tenant in support of the above agreement for use **only** in the event that the landlord does not abide by condition #2 of the above agreement. The landlord must be served with a copy of this Order as soon as possible after the landlord does not abide by condition #2 of the above agreement. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

Both parties must bear their own costs for the \$100.00 filing fees paid for their applications.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: December 07, 2017

Residential Tenancy Branch